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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,684	02/18/2004	Stefania Albonetti	LP-1851-1	8561

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FISHER, CHRISTEN & SABOL  
1725 K STREET, N.W.  
SUITE 1108  
WASHINGTON, DC 20006

EXAMINER

WOOD, ELIZABETH D

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/779,684

Applicant(s)

ALBONETTI ET AL.

Examiner

Elizabeth D. Wood

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-34 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 14-16, 20, 21, 29, 31, 33 and 34 is/are allowed.
- 6) ☒ Claim(s) 19 is/are rejected.
- 7) ☒ Claim(s) 13, 17, 22-28, 30 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/979,920.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/18/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### ***Specification***

The examiner has not checked the specification to the extent necessary to determine the presence of **all** possible minor errors (grammatical, typographical and idiomatic). Cooperation of the applicant(s) is requested in correcting any errors of which applicant(s) may become aware of in the specification, in the claims and in any future amendment(s) that applicant(s) may file.

Applicant(s) is also requested to complete the status of any copending applications referred to in the specification by their Attorney Docket Number or Application Serial Number, **if any**.

***Please note that the status of the parent application(s) and/or any other application(s) cross-referenced to this application, should be updated in a timely manner.***

### ***Amendments to the Claims***

Applicants are required to clarify/insure the next listing of claims provided correctly indicates that claims 1-11 have been cancelled. The currently provided listing recites claims "1 to 1", which has been treated as reciting "1 to 11" by the examiner for the purposes of this office action.

### ***Election/Restriction***

No obviousness-type double patenting rejections have been made in this application due to the restriction requirement in SN 09/979,920.

### ***Claim Objections***

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Claims 13, 17, 22-28, 30 and 32 are objected to. In claim 13, step "d" and claim 17, line 1, "catalysts" should be changed to "catalyst" to correct the problem.

***Claim Rejections - 35 USC § 112***

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 lacks literal antecedent basis earlier in the claim for the recitation of "the activated catalysts". In line 2, "catalysts" should be changed to "catalyst".

***Allowable Subject Matter***

Claims 12, 14-16, 20, 21, 29, 31, 33 and 34 are allowable over the prior art of record. The remaining claims would be allowable if amended to overcome the hereinabove rejections and objections.

The prior art fails to teach or suggest the specifically claimed carbon content of the catalyst precursor. The prior art also fails to teach or suggest the specifically claimed process for making this composition, namely the prior art reacts the source of vanadium and the source of phosphorus at the same time with the alcohol/polyol mixture. It would appear that the specifically claimed process, using the claimed ratio of components, results in this carbon content. The specification also teaches that the particular calcination leaves a different residual carbon content, which results in the best performance.

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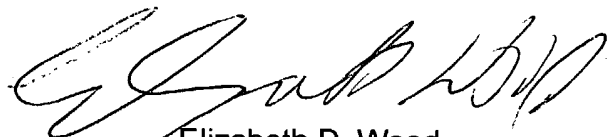
**Conclusion**

Applicants are advised that any evidence to be provided under 37 CFR 1.131 or 1.132 and any amendments to the claims and specification should be submitted prior to final rejection to be considered timely. It is anticipated that the next office action will be a final rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth D. Wood whose telephone number is 571-272-1377. The examiner can normally be reached on M-F, 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on 571-272-1364. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Elizabeth D. Wood  
Primary Examiner